

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CAROLINE CALLAWAY

Plaintiff

VS.

CITY OF AUSTIN; TRAVIS COUNTY;
AUSTIN POLICE OFFICER PATRICK
OBORSKI; AUSTIN POLICE OFFICER

ADAM JOHNSON

Defendants

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NO. 1:15-CV-103-SS

CITY DEFENDANTS' ANSWER

TO THE HONORABLE JUDGE SAM SPARKS:

COMES NOW, the City of Austin, Officer Patrick Oborski and Sergeant Adam Johnson (“City Defendants”), and file City Defendant’s Answer, and respectfully show as follows:

I.
Answer

Defendants lack sufficient information to admit or deny the allegations in the Introductory Paragraph, or Paragraph 1.

Defendants admit the allegations in Paragraphs 2-4.

Defendants lack sufficient information to admit or deny the allegations in Paragraphs 5-8.

Defendants deny the allegations in Paragraph 9.

Defendants lack sufficient information to admit or deny the allegations in Paragraph 10.

Defendants admit the allegations in Sentences 1-4&6, but deny the allegations in Sentence 5 in Paragraph 11.

Defendants admit the allegations in Paragraph 12.

Defendants deny the allegations in Sentences 1&4, and lack sufficient information to admit or deny the allegations in Sentences 2-3 in Paragraph 13.

Defendants deny the allegations in Sentences 1,5&7-8, admit the allegations in Sentences 2-4, and lack sufficient information to admit or deny the allegations in Sentence 6 in Paragraph 14.

Defendants deny the allegations in Paragraphs 15-20.

Defendants admit the allegations in Sentences 1-3&5, but deny the allegations in Sentences 4&6 in Paragraph 21.

Defendants deny the allegations in Paragraphs 22-23.

Defendants admit the allegations in Sentence 3, but deny the allegations in Sentences 1-2&4-5 in Paragraph 24.

Defendants deny the allegations in Paragraphs 25-37.

Defendants lack sufficient information to admit or deny the allegations in Paragraphs 38-42.

Defendants deny the allegations in Paragraphs 43-48.

Defendants deny that Plaintiff is entitled to any relief sought in the Prayer.

II. **Affirmative Defenses**

Defendants assert the affirmative defense of governmental immunity as a municipal corporation entitled to immunity while acting in the performance of governmental functions, absent express waiver.

Defendants assert the affirmative defense of qualified/official immunity for actions of employees taken in the course and scope of their employment, absent express waiver.

Defendants assert the affirmative defense that the City is not liable under *respondeat superior*.

Defendants assert the affirmative defense that constitutional rights were not violated.

Defendants assert the affirmative defense that punitive damages are not recoverable against a municipality.

Defendants assert the affirmative defense that Plaintiff failed to mitigate damages, if any.

Defendants reserve the right to assert additional affirmative defenses throughout the development of the case.

III.
Prayer

WHEREFORE, City Defendants pray that all relief requested by Plaintiff be denied, and for costs, attorney's fees, and any additional relief to which they are entitled under law or equity.

RESPECTFULLY SUBMITTED,

ANNE L. MORGAN, CITY ATTORNEY
MEGHAN L. RILEY, CHIEF, LITIGATION DIVISION


CHRIS EDWARDS
Assistant City Attorney
State Bar No. 00789276
City of Austin-Law Department
P. O. Box 1546
Austin, Texas 78767-1546
Chris.edwards@austintexas.gov
Telephone: (512) 974-2419
Facsimile: (512) 974-1311

ATTORNEYS FOR CITY DEFENDANTS

CERTIFICATE OF SERVICE

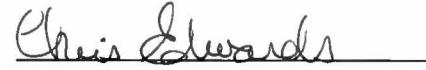
This is to certify that I served the foregoing on all parties, or their attorneys of record, in compliance with the Federal Rules of Civil Procedure, this 25th day of March, 2016.

Via e-Filing to:

Daphne Pattison Silverman
Silverman Law Group
501 N. IH 35
Austin, Texas 78702

Broadus A. Spivey
Spivey & Grigg
48 East Avenue, Suite 100
Austin, TX 78701
ATTORNEYS FOR PLAINTIFF

Laurie Eiserloh
Anthony J. Nelson
Assistant County Attorneys
P. O. Box 1748
Austin, Texas 78767
ATTORNEYS FOR TRAVIS COUNTY


Chris Edwards
CHRIS EDWARDS